except as one of the community, is not entitled to the writ. *Mitchell v. Boardman,* 79 Me., 469; *State v. Charleston Light & Water Co.,* 68 S. C., 540. Yet, other courts hold, that if the act affects the people at large or any class of people, any member may move for a *mandamus* to enforce a public duty. *Union R. R. Co. v. Hall,* 91 U. S., 354; *Loader v. Brooklyn Heights R. Co.,* 35 N. Y. Supp., 996; *Florida Cent., etc., R. Co., v. State,* 31 Fla., 482. Of course, if a private person has a peculiar and a special interest in enforcement of right, he can maintain the action. *Southern Express Co. v. R. M. Rose Co.,* 124 Ga., 581; *Robbins v. Bangor, etc., R. Co.,* 100 Me., 496. But, if the right or duty affects the State in its sovereign capacity as distinguished from the people at large, the proceedings must be instituted by the proper public officer. *People ex rel Sherwood v. Bd. Canvassers,* 129 N. Y., 360. The fact that a public officer is entitled to institute proceedings does not defeat the right of a specially interested individual. *State v. Bloom,* 19 Neb., 562. Or, even without such interest, if the public officer is absent or declines to move, the individual may do so. *People v. State University,* 4 Mich., 98. But, in all cases *mandamus* will be denied where there is other adequate remedy. *State v. Kinkaid,* 23 Neb., 641.

MASTER AND SERVANT—INJURIES TO SERVANT—CONTRIBUTORY NEGLIGENCE—EVIDENCE.—GALE V. HELMBACHER FORGE & ROLLING MILLS CO., 140 S. W., 77 (Mo.)—*Held,* evidence that a servant, injured through use of an improper apparatus, worked with it, knowing it to be unsafe, is evidence of his contributory negligence.

Where a servant continued work with knowledge, actual or constructive, of dangers which an ordinary prudent man would refuse to subject himself to, he is guilty of contributory negligence. *Watts v. Boston Tow Boat Co.,* 161 Mass., 378; *Schulz v. Rohe,* 149 N. Y., 132. There is a distinction between knowledge of defects and knowledge of the risks resulting from such defects, and a servant is not chargeable with contributory negligence if he merely knows that defects exist, but does not know, or cannot know by exercise of ordinary care, that there is danger. *Hartrich v. Hawes,* 202 Ill., 334; *Murphy v. City Coal Co.,* 172 Mass., 324. However, it has frequently been held that a servant after learning of the risks, is entitled to time and opportunity for making complaint; *Fordyce v. Edwards,* 60 Ark., 438, that he may continue in the employment a reasonable time for the remedy of defects and the removal of danger; *McCabe v. Montana Cent. Ry. Co.,* 30 Mont., 323, and that his failure to complain or quit work does not charge him with assumption of risk or contributory negligence where his services are hired for a limited time and he has no right to terminate his contract at will. *Poirier v. Carroll,* 35 La. Ann., 699. Where a defect or danger is caused by the master's negligence, and is known or ought to be known, by him, he cannot rely upon the servant's failure to make complaint or quit work after learning thereof. *Seaboard Mfg. Co. v. Woodson,* 98 Ala., 378.